

CITY COUNCIL MINUTES

June 23, 2008

REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, June 23, 2008 at 6:00 p.m. with Mayor Nesbitt presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL:

Council Members Present: Bob Snyder, Kevin Hanley, J. M. Holmes, Bridget Powers, Keith Nesbitt

Council Members Absent: None

Staff Members Present: City Manager Robert Richardson. City Attorney Michael Colantuono, Associate Planner Lance Lowe, Fire Chief Mark D'Ambrogi, Public Works Director Jack Warren, Engineering Division Manager Bernie Schroeder, Transit Analyst Megan Siren, Administrative Services Director Andy Heath, Police Chief Valerie Harris

AGENDA APPROVAL

Council Member Snyder requested, without objection, that Item 17 be heard prior to the other items of Council Business to follow Item 12.

CONSENT CALENDAR

Council Member Holmes requested, without objection, to have Item 10 removed from the Consent Calendar for discussion.

Council Member Snyder requested, without objection, to have Item 2 removed from the Consent Calendar for discussion.

1. **Minutes**

By **MOTION** approve City Council Minutes of May 27, 2008.

2. **Surplus City Equipment**

Item follows consent Calendar.

3. **CNG Fueling Station Project**

By **RESOLUTION 08-82** move to authorize the Director of Public Works to file the notice of completion for the CNG Fueling Station Project.

4. **2nd Reading of the City's Density Bonus Ordinance**

By **ORDINANCE 08-05** establish the Density Bonus Ordinance, adding Sections 159.335 *et. seq.* of the Auburn Municipal Code establishing standards and criteria, in accordance with State law, specifying how the City will provide for density bonuses for residential development.

5. **2nd Reading Ordinance Clarifying that City Manager May Accept Officers of Dedication on Parcel Maps**

By **ORDINANCE 08-06** amend the Auburn Municipal Code to more plainly authorize the City Manager to accept offers of dedication on parcel maps.

6. **Weed Abatement – Declare Public Nuisance**

By **RESOLUTION 08-83** declare Public Nuisance of certain properties within the City of Auburn identified as containing weeds, rubbish, and or debris.

7. **Auburn Transit CNG Bus Purchase**

By **RESOLUTION 08-84** authorize the Director of Public Works to purchase a CNG Bus from El Dorado Bus Sales.

8. **Adoption of Interim Budgetary Spending Authority for Fiscal Year 2008-09**

By **RESOLUTION 08-85** adopt interim spending authority for Fiscal Year 2008-09 for all City funds pending adoption of the final Fiscal Year 2008-09 Operating and Capital Budgets.

9. **Youth Advisory Commission Extension**

By **RESOLUTION 08-86** approve a one-year extension to the Youth Advisory Commission.

10. **Appointment of Youth Advisory Commissioner**

Item follows Consent Calendar.

***** End of Consent Calendar *****

By **MOTION** approve the Consent Calendar excluding Items 2 and 10.
MOTION: Hanley/Powers/Approved 5:0

2. **Surplus City Equipment**

Council Member Snyder asked staff to offer the computer equipment to the Boys & Girls Club before disposing of the items. He asked that next time equipment is to be declared surplus staff provides the date the equipment was acquired if possible.

By **RESOLUTION 08-87** declare as surplus to the City's needs the equipment listed on Exhibit A and B and direct staff to contract with an auctioneer to assist the City in disposal of equipment or properly dispose of items after offering the electronic equipment to the Boys & Girls Club.
MOTION: Snyder/Hanley/Approved 5:0

10. **Appointment of Youth Advisory Commissioner**

Council Member Holmes advised that applicant to the Youth Advisory Commission, Gwendolyn Daly, was in attendance at the meeting. Mayor Nesbitt gave her his personal congratulations.

By **RESOLUTION 08-88** appoint Gwendolyn Daly to the Youth Advisory Commission. **MOTION: Holmes/Powers/Approved 5:0**

11. **Public Comment**

Council Member Holmes advised that the Governor has announced that California is a drought situation. He said he has seen some residences watering lawns with water running into the street. He encouraged Auburn citizens to take care not to waste water.

REPORTS

12. **City Council Committee Reports**

Council Member Snyder reported that Placer County Mosquito Abatement District had its executive director resign. He said the District is seeking applicants for the position. He also said there would be a workshop the following day at the Placer County Board of Supervisors regarding the regional wastewater solution.

Council Member Holmes stated that the Placer County Air Pollution Control District approved a preliminary budget which includes a number of clean air grants. He asked that City staff apply. He said that one

suggested application for grant would be to encourage City residents to exchange gas-powered lawn mowers for electric mowers.

Council Member Holmes that the Youth Advisory Commission was responsible for the art display at City Hall as part of the June Art Walk.

Mayor Nesbitt advised that the Placer County Transportation Planning Agency (PCTPA) recently took over the consolidated transportation service from Pride Industries. He said as part of the PCTPA is looking at a company called Health Express for a pilot program for people with medical needs. He also said that next year there will be repair work on I-80 that will require re-routing traffic to include heavy trucks and buses through Auburn. He advised that schedules will be forthcoming.

Council Member Snyder welcomed all participants and their families in the upcoming endurance run to Auburn.

COUNCIL BUSINESS

17. Auburn Wastewater Plant – Regional Sewer

Public Works Director Jack Warren introduced the item. He advised that, as directed on May 27, 2008, design of the wastewater treatment plant was resumed. He said staff met with members of the Regional Water Quality Control Board and started dialogue regarding on-site improvements and how to address trace minerals. He said the Senior Staff Engineer encouraged City staff to reopen its discharge permit because the Regional Board is applying new criteria that is far easier to comply with than the existing criteria.

He advised that following that meeting, another meeting was held to request additional time to allow for other financing options to develop pursuant to discussion between the City, the County and the City of Lincoln. Participants in the meeting were Executive Director Pamela Creedon, Council Members Snyder and Holmes, Mr. Warren and Engineering Division Manager Bernie Schroeder. Ms. Creedon advised that it would be a long time before the discharge permit could be reopened and that she wanted to see the regional solution given more consideration. Ms. Creedon did say she would accept a request for a time extension and present it to her board. He advised that the request was formally made, but that he has not heard back from Ms. Creedon.

Ms. Creedon asked that there be an “act of good faith” by the City to show that there was continued interest in the regional solution. He said that Council Member Snyder suggested that the City invest in the capacity of the pipeline, already in the ground, from the City of Lincoln. He said the

best estimate of cost is about 2.3 million dollars. He said it is possible that, if the City does not go to the regional solution, the pipeline capacity could be disposed of to another entity to recoup some of the cost. He said that it is possible, if the economic climate remains as it is, on site wastewater plant improvements could be less than estimated. In that event, the excess funds could be applied to purchasing the pipeline capacity.

Council Member Snyder stated that he got the idea for buying pipeline from previous staff reports and a conversation with Mr. Warren. He advised that the letter dated June 11, 2008 is to request an extension and not spend the money at this time. Mr. Warren advised that since the City has no indication what the response will be to the request, it was not shown as a staff recommendation in the staff report to Council. He said if the request is denied, the City will be behind schedule.

Council Member Snyder stated that, if there are penalties for not meeting the deadline, they would be less than finishing the design work when there is a possibility that the City will not have to spend any money. He said the design work should be stopped at this time. Mr. Warren stated that he has Council direction to proceed with the on-site design. He said he does not have Council direction to stop. He said he will stop the design if the Council directs him to do so. Mr. Snyder stated that Public Works Director is not providing enough information to encourage the regional solution.

Council Member Hanley stated that he disagreed. He said he felt that he has always received the good information on the subject. Mr. Hanley questioned what is meant by "innovative financing alternatives." Council Member Snyder responded. He said, "It is generally agreed that whatever they (Regional Water Quality Control Board) require is going to be cheaper for our rate payers through regional broad-base sewage than a stay-at-home solution. It's cheaper to treat nitrogen at a regional plant than it is to treat it here."

Mr. Hanley stated he was aware of that, but that there is a series of "unknowns." He said, "What I want to know concretely is what different financing method is being discussed with Placer County and the City of Lincoln that would change the potential rate." Mr. Snyder suggested that there would not be a start-up increase, but that increases would be applied in future years.

Mr. Hanley questioned the request for additional time for investigation along the proposed route of the regional trunk line as related to construction costs. Mr. Warren stated that it would be to get a better picture of what is underground such as rock, boulders, and granite.

Mr. Hanley questioned the City purchasing capacity in the existing sewer trunk line and if it was contingent upon going regional. Mr. Warren stated that in his staff report he purposely used the words “declare the intent” because there may be an obligation to an incremental rate increase. Council questions and comments followed.

Mayor Nesbitt stated that he felt that a letter of intent obligates the City to pay 2.3 million dollars. Mr. Warren advised that he did not know whether or not the money could be totally recouped if at some point the City did not choose the regional solution.

Curt Smith, Auburn resident, stated that he was concerned with a resolution to commit to buying into the trunk line. He said without seeing a definitive funding proposal, he opposed the commitment.

Jerry Kopp, Auburn resident, asked if the City’s plant was currently in compliance. Mayor Nesbitt stated that it is not. Mr. Koff stated that there is not a set amount for the regional project and he cannot accept buying into an unknown entity. Mr. Kopp suggested that the City challenge the mandates. Council Member Snyder clarified the mandates and procedures to Mr. Kopp.

Council Member Snyder favored delay in the design because he did not want the City to pay \$45,000 to \$60,000 to avoid a \$6,000 a month fine. He suggested it be added to the motion.

Council Member Hanley stated that he supported the continuation of the design work without delay. He said he favored ongoing discussions with all parties involved. He said, “I would be supportive of declaring the City’s intent to purchase capacity on an existing sewer trunk line with the added language at the end that says ‘to be implemented if the City Council approves a financing proposal to build the line to Lincoln.’” He said he would add a motion that the City should encourage Senator Cox and Assemblyman Gaines to insert language in the water bond that part of the appropriated money would go to cities of 20,000 or less for cities that wanted to regionalize.

Council Member Holmes stated that he favored the regional solution. He said he did agree that cost is still relatively unknown. He said he is hopeful for Federal funding and a State water bond that could be of assistance. He said that on the “side of caution we need to go ahead with the design portion of our own plant and move ahead to seek an extension from the Regional Board.” He said he would be cautious about buying pipeline capacity.

Council Member Powers stated that although she supports the regional solution, she is concerned with the projected sewer rate increase. She favored the request for a time extension, but did not want to delay the plant design in the interim period.

Mayor Nesbitt stated that he supported challenging oppressive mandates. He said he favored asking for an extension and the City's permit to be re-opened. He said if innovative financing options become a reality, possibly the 2.3 million dollars could be rolled into one of those options. He said support of the trunk line is premature at this time. He said he would not vote for the regional solution until he can get an exact amount for the rate increase.

Council Member Snyder responded to some of the comments and clarified specific issues. He said he has been meeting for three years with the Regional Sewer Authority. He said the financial aspects of the regional solution are still evolving. He said that if the City declares its intent to purchase capacity, it will be expected to do so without additional conditions. He said the capacity will not become less valuable and he is not concerned with the investment. He said the production of reclaimed water at the regional plant can be sold to other users. He said the \$87 fee would not be applied for about three years. He said he is trying to keep the option open. He said if the City tries to put unrealistic conditions on the 2.3 million dollars, the Regional Board will not think the City is "serious and won't process our request."

By **MOTION** add the delay of the design for three months to the staff recommendations. **MOTION: Snyder**

By **SUBSTITUTE MOTION** confirm the request to have a time extension and to reopen the permit and stop the design work until there is a decision from the Board on whether it's going to give the City a time extension and reopen that permit with review from the Council in 90 days (or sooner) to 120 days. **MOTION: Nesbitt/Holmes**

Council Member Hanley said in November 2007 the Council made a decision to go on-site. He said there has not been any new information provided. He said he is not willing to stop the design and risk penalties and the possibility of being out of compliance. He said the on-site work must be done. He said he approved the staff recommendations and the pursuit of new monies from the State. He said he was against a subcommittee utilizing any portion of the Council because Council Members are informed and two members will not be reflective of the entire Council.

Mr. Warren advised that 90 days takes the City out of the construction season. He said it could be phased or pay additional monies to have the design work handled on a rush basis.

Mayor Nesbitt said his motion was putting off the decision on the regional pipeline in that suspending the design work would be a good faith gesture instead of paying 2.3 million dollars.

Mayor Nesbitt provided a *clarification of the motion*:

to make the request to reopen the permit, send a letter asking for an extension, agree to stop design work (exclude 90 days), take no action on the pipeline, and the subcommittee (Mayor Nesbitt and Council Member Snyder and staff support of City Manager Richardson and Public Works Director Warren) to continue to discussions with all agencies

By **RESOLUTION 08-89**:

- A. Authorize the Director of Public Works to execute a request to Pamela Creedon, Executive Director of the Regional Water Quality Control Board, to grant an additional time extension of four to six months to the City's discharge permit.
- B. Authorize the Director of Public Works to execute a request to Pamela Creedon to consider re-opening the City's discharge permit and allow the application of current criteria which could result in less stringent requirements.
- C. Take no Action on the pipeline
- D. Authorize the subcommittee and its support staff to continue discussions with other participating agencies.

MOTION: Nesbitt/Holmes/Approved 4:1 (No Hanley)

13. **Planning Commission Appointment**

Mayor Nesbitt announced that Ray Merz tendered his resignation on the Planning Commission. Mayor Nesbitt said he selected Mr. Alan Young, a retired Assistant Fire Chief, who is very involved in the community, to complete the term. He stated that, with Mr. Young's experience and his calm demeanor, he will be a good addition to the Planning Commission.

By **RESOLUTION 08-90** confirm the Planning Commission appointment of Alan Young by Mayor Keith Nesbitt. **MOTION: Holmes/Powers/Approved 5:0**

14. **Finley Street – One Way Designation**

Public Works Director stated that the staff recommendation was to proceed with the one-way designation of Finley Street, do nothing on Hale Street, and re-evaluate in January 2009.

Council Member Hanley asked if it was possible to have a temporary drop-off point for students on Hale Street. Mr. Warren advised that during the neighborhood meeting, school representatives were present, and the bus routes were discussed. He said there were several variations prior to deciding upon the route now used. He said they do not want any variations to the route as it now stands.

Council Member Hanley suggested an arrow painted on the roadway would be beneficial to the drivers.

By **RESOLUTION 08-91** designate Finley Street as a one-way street from High Street to Orange Street in the southbound direction on a trial basis and rescind Resolution 08-64 that designated Hale Street as a one-way southbound street. **MOTION: Powers/Hanley/Approved 5:0**

Council Member Snyder asked for a measure of success to be determined for future Council discussion by the Police Department and the Public Works Department.

15. **Cooperative Agreement with Placer County for Auburn Folsom Bikeway Project**

Public Works Director Warren introduced the item. He advised that Placer County has a project to construct bike lanes on portions of Auburn-Folsom Road. He said that the County needs to come into the City limits and remove portions of the sidewalks. He said the City's participation would be limited to providing permits at no cost and provide construction inspections within City limits.

By **RESOLUTION 08-92** authorize the Mayor to sign the Cooperative Agreement between the City of Auburn and Placer County for the Auburn Folsom Bikeway Project – Phase 1. **MOTION: Hanley/Powers/Approved 5:0**

16. **Ordinance Establishing City Recreational Facilities Rules, Regulations and Penalties – 1st Reading**

Police Chief Valerie Harris introduced the item. She said the ordinance would allow for penalties and outline specific enforcement aspects. She

said an ordinance is necessary for recreational areas that allows for non-compliance violations in areas such as the School Park Preserve. She said the ordinance would provide police authority over City park areas and allow for the enactment of specific rules that cannot be enforced through other ordinances.

Mayor Nesbitt asked if a person carrying a skateboard through the park could be cited. Chief Harris answered that with the restrictive applications, he could be cited. She said it would be a matter of discretion, but that the appeal process would allow the individual to present his argument.

City Manager Richardson said after conferring with the City's non-profit partners, and law enforcement, the skateboard ban in the park was the recommendation of staff in order to limit maintenance and protect the beauty of the park.

Mayor Nesbitt stated that if a skateboarder respected the no-skating signs, put the board under his arm, and was cited, it would be a travesty of justice to even have to go through the appeal process. He said the park was created for everyone in Auburn and we would be discouraging a specific group from walking through the park.

Council Member Snyder stated that he did not believe that the police would cite someone walking through the park with a skateboard. He said he did not think the compacted, granite paths would hold up under skateboard use. He said for that reason alone, "skateboards should be banned from the park."

City Attorney Michael Colantuono advised that the ordinance provides the basis for rules to be subsequently adopted. He said that the issue will return to the Council in two weeks and the rules will be articulated and considered at that time. He explained that the introduction of an ordinance is proposed legislation to be discussed in the future.

Council Member Hanley stated he supported two readings to allow the public to read and comment on the proposal. He said he agreed with the Mayor regarding the possession restriction.

Curt Smith, Auburn resident, advised Council that the Auburn Recreation District (ARD) has an ordinance stating how people should conduct themselves within the parks. He suggested that the City ordinance parallel the ARD ordinance and that the City coordinate with ARD in development of the ordinance.

By **MOTION** hold first reading, by title only, of an ordinance regulating use and operation of City recreational facilities, and authorizes penalties for

non-compliance with established rules. **MOTION: Hanley/Holmes/
Approved 5:0**

By **MOTION** do not include in the implementing resolution the possession of skating devices. **MOTION: Hanley/Holmes/Approved 4:1 (No Snyder)**

17. **Auburn Wastewater Plant – Regional Sewer**

Item follows Item 12.

ADJOURNMENT

Mayor Nesbitt, without objection, adjourned the meeting at 8:30 p.m.

Keith Nesbitt, Mayor

Joseph G. R. Labrie, City Clerk